

1986—Pars. (12) to (15). Pub. L. 99-659 added pars. (12) to (15).

1983—Pars. (9) to (11). Pub. L. 97-453 added pars. (9) to (11).

1979—Pars. (6) to (8). Pub. L. 96-61 added pars. (6) to (8).

1978—Par. (5). Pub. L. 95-354 added par. (5).

§ 1883. Gulf of Mexico red snapper research

(a) Independent peer review

(1) Within 30 days of October 11, 1996, the Secretary shall initiate an independent peer review to evaluate—

(A) the accuracy and adequacy of fishery statistics used by the Secretary for the red snapper fishery in the Gulf of Mexico to account for all commercial, recreational, and charter fishing harvests and fishing effort on the stock;

(B) the appropriateness of the scientific methods, information, and models used by the Secretary to assess the status and trends of the Gulf of Mexico red snapper stock and as the basis for the fishery management plan for the Gulf of Mexico red snapper fishery;

(C) the appropriateness and adequacy of the management measures in the fishery management plan for red snapper in the Gulf of Mexico for conserving and managing the red snapper fishery under this chapter; and

(D) the costs and benefits of all reasonable alternatives to an individual fishing quota program for the red snapper fishery in the Gulf of Mexico.

(2) The Secretary shall ensure that commercial, recreational, and charter fishermen in the red snapper fishery in the Gulf of Mexico are provided an opportunity to—

(A) participate in the peer review under this subsection; and

(B) provide information to the Secretary concerning the review of fishery statistics under this subsection without being subject to penalty under this chapter or other applicable law for any past violation of a requirement to report such information to the Secretary.

(3) The Secretary shall submit a detailed written report on the findings of the peer review conducted under this subsection to the Gulf Council no later than one year after October 11, 1996.

(b) Prohibition

In addition to the restrictions under section 1853(d)(1)(A) of this title, the Gulf Council may not, prior to October 1, 2002, undertake or continue the preparation of any fishery management plan, plan amendment or regulation under this chapter for the Gulf of Mexico commercial red snapper fishery that creates an individual fishing quota program or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class.

(c) Referendum

(1) On or after October 1, 2002, the Gulf Council may prepare and submit a fishery management plan, plan amendment, or regulation for the Gulf of Mexico commercial red snapper fishery that creates an individual fishing quota program

or that authorizes the consolidation of licenses, permits, or endorsements that result in different trip limits for vessels in the same class, only if the preparation of such plan, amendment, or regulation is approved in a referendum conducted under paragraph (2) and only if the submission to the Secretary of such plan, amendment, or regulation is approved in a subsequent referendum conducted under paragraph (2).

(2) The Secretary, at the request of the Gulf Council, shall conduct referendums under this subsection. Only a person who held an annual vessel permit with a red snapper endorsement for such permit on September 1, 1996 (or any person to whom such permit with such endorsement was transferred after such date) and vessel captains who harvested red snapper in a commercial fishery using such endorsement in each red snapper fishing season occurring between January 1, 1993, and such date may vote in a referendum under this subsection. The referendum shall be decided by a majority of the votes cast. The Secretary shall develop a formula to weigh votes based on the proportional harvest under each such permit and endorsement and by each such captain in the fishery between January 1, 1993, and September 1, 1996. Prior to each referendum, the Secretary, in consultation with the Council, shall—

(A) identify and notify all such persons holding permits with red snapper endorsements and all such vessel captains; and

(B) make available to all such persons and vessel captains information about the schedule, procedures, and eligibility requirements for the referendum and the proposed individual fishing quota program.

(d) Catch limits

Any fishery management plan, plan amendment, or regulation submitted by the Gulf Council for the red snapper fishery after October 11, 1996, shall contain conservation and management measures that—

(1) establish separate quotas for recreational fishing (which, for the purposes of this subsection shall include charter fishing) and commercial fishing that, when reached, result in a prohibition on the retention of fish caught during recreational fishing and commercial fishing, respectively, for the remainder of the fishing year; and

(2) ensure that such quotas reflect allocations among such sectors and do not reflect any harvests in excess of such allocations.

(Pub. L. 94-265, title IV, § 407, as added Pub. L. 104-297, title II, § 207(b), Oct. 11, 1996, 110 Stat. 3612; amended Pub. L. 106-554, § 1(a)(4) [div. B, title I, § 144(a)(3), (4)], Dec. 21, 2000, 114 Stat. 2763, 2763A-238.)

AMENDMENTS

2000—Subsecs. (b), (c)(1). Pub. L. 106-554 substituted “October 1, 2002,” for “October 1, 2000,”.

CHAPTER 39—MINING ACTIVITY WITHIN NATIONAL PARK SYSTEM AREAS

Sec. 1901.	Congressional findings and declaration of policy.
1902.	Preservation and management of areas by Secretary of the Interior; promulgation of regulations.

Sec.

1903 to 1906. Omitted.

- 1907. Recordation of mining claims; publication of notice.
- 1908. Damage to natural and historical landmarks; procedures for determination and enforcement of abatement of damaging activities.
- 1909. Severability.
- 1910. Civil actions for just compensation by mining claim holders.
- 1911. Acquisition of land by Secretary.
- 1912. Financial disclosure by officer or employee of Secretary.
 - (a) Filing and availability of written statements; contents.
 - (b) Enforcement procedures.
 - (c) Exemptions.
 - (d) Violation; penalty.

§ 1901. Congressional findings and declaration of policy

The Congress finds and declares that—

(a) the level of technology of mineral exploration and development has changed radically in recent years and continued application of the mining laws of the United States to those areas of the National Park System to which it applies, conflicts with the purposes for which they were established; and

(b) all mining operations in areas of the National Park System should be conducted so as to prevent or minimize damage to the environment and other resource values, and, in certain areas of the National Park System, surface disturbance from mineral development should be temporarily halted while Congress determines whether or not to acquire any valid mineral rights which may exist in such areas.

(Pub. L. 94-429, §1, Sept. 28, 1976, 90 Stat. 1342.)

SHORT TITLE

Pub. L. 94-429, which enacted this chapter, amended sections 123 and 450y-2 of this title, and repealed sections 350, 350a, 447, and 450z of this title, is popularly known as the "Mining in the Parks Act".

§ 1902. Preservation and management of areas by Secretary of the Interior; promulgation of regulations

In order to preserve for the benefit of present and future generations the pristine beauty of areas of the National Park System, and to further the purposes of sections 1, and 2 to 4 of this title, as amended, and the individual organic Acts for the various areas of the National Park System, all activities resulting from the exercise of valid existing mineral rights on patented or unpatented mining claims within any area of the National Park System shall be subject to such regulations prescribed by the Secretary of the Interior as he deems necessary or desirable for the preservation and management of those areas.

(Pub. L. 94-429, §2, Sept. 28, 1976, 90 Stat. 1342.)

§§ 1903 to 1906. Omitted

CODIFICATION

Section 1903, Pub. L. 94-429, §4, Sept. 28, 1976, 90 Stat. 1343, provided for a 4-year cessation of certain mining operations within the boundaries of Death Valley National Monument, Mount McKinley National Park, and

Organ Pipe Cactus National Monument, subject to exceptions.

Section 1904, Pub. L. 94-429, §5, Sept. 28, 1976, 90 Stat. 1343, provided for inapplicability of requirements for annual expenditures on mining claims to mining operations during the 4-year period under section 1903.

Section 1905, Pub. L. 94-429, §6, Sept. 28, 1976, 90 Stat. 1343, provided that within 2 years the Secretary of the Interior determine the validity of unpatented mining claims within Glacier Bay National Monument, Death Valley and Organ Pipe Cactus National Monuments and Mount McKinley National Park, submit to Congress recommendations for acquisition of valid claims, and study and submit to Congress recommendations for modifications of existing boundaries of the Death Valley Monument and the Glacier Bay National Monument.

Section 1906, Pub. L. 94-429, §7, Sept. 28, 1976, 90 Stat. 1343, provided that within 4 years the Secretary determine the validity of unpatented mining claims within Crater Lake National Park, Coronado National Memorial, and Glacier Bay National Monument, and submit to Congress recommendations for acquisition of valid claims.

§ 1907. Recordation of mining claims; publication of notice

All mining claims under the Mining Law of 1872, as amended and supplemented (30 U.S.C. chapters 2, 12A, and 16 and sections 161 and 162) which lie within the boundaries of units of the National Park System shall be recorded with the Secretary of the Interior within one year after September 28, 1976. Any mining claim not so recorded shall be conclusively presumed to be abandoned and shall be void. Such recordation will not render valid any claim which was not valid on September 28, 1976, or which becomes invalid thereafter. Within thirty days following September 28, 1976, the Secretary shall publish notice of the requirement for such recordation in the Federal Register. He shall also publish similar notices in newspapers of general circulation in the areas adjacent to those units of the National Park System listed in section 3 of this Act.

(Pub. L. 94-429, §8, Sept. 28, 1976, 90 Stat. 1343.)

REFERENCES IN TEXT

Section 3 of this Act, referred to in text, is section 3 of Pub. L. 94-429, which amended sections 123 and 450y-2 of this title; repealed sections 350, 350a, 447, and 450z of this title; and repealed act June 22, 1936 (49 Stat. 1817) which was not classified to the Code. The units of the National Park System listed in such section 3 are: Crater Lake National Park, Mount McKinley National Park, Death Valley National Monument, Glacier Bay National Monument, Coronado National Memorial, and Organ Pipe Cactus National Monument.

§ 1908. Damage to natural and historical landmarks; procedures for determination and enforcement of abatement of damaging activities

(a) Whenever the Secretary of the Interior finds on his own motion or upon being notified in writing by an appropriate scientific, historical, or archeological authority, that a district, site, building, structure, or object which has been found to be nationally significant in illustrating natural history or the history of the United States and which has been designated as a natural or historical landmark may be irreparably lost or destroyed in whole or in part by

any surface mining activity, including exploration for or removal or production of minerals or materials, he shall notify the person conducting such activity and submit a report thereon, including the basis for his finding that such activity may cause irreparable loss or destruction of a national landmark, to the Advisory Council on Historic Preservation, with a request for advice of the Council as to alternative measures that may be taken by the United States to mitigate or abate such activity.

(b) Omitted

(Pub. L. 94-429, § 9, Sept. 28, 1976, 90 Stat. 1343.)

CODIFICATION

Subsec. (b) provided that within 2 years the Advisory Council on Historic Preservation report to Congress on effect on surface mining activities on natural and historical landmarks, including recommendations for protective legislation.

§ 1909. Severability

If any provision of this chapter is declared to be invalid, such declaration shall not affect the validity of any other provision herein.

(Pub. L. 94-429, § 10, Sept. 28, 1976, 90 Stat. 1344.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 94-429, which, in addition to enacting this chapter, amended sections 123 and 450y-2 of this title, and repealed sections 350, 350a, 447, and 450z of this title.

§ 1910. Civil actions for just compensation by mining claim holders

The holder of any patented or unpatented mining claim subject to this chapter who believes he has suffered a loss by operation of this chapter, or by orders or regulations issued pursuant thereto, may bring an action in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution.

(Pub. L. 94-429, § 11, Sept. 28, 1976, 90 Stat. 1344; Pub. L. 98-620, title IV, § 402(21), Nov. 8, 1984, 98 Stat. 3358.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 94-429, which, in addition to enacting this chapter, amended sections 123 and 450y-2 of this title, and repealed sections 350, 350a, 447, and 450z of this title.

AMENDMENTS

1984—Pub. L. 98-620 struck out provision which required the court to expedite its consideration of any claim brought pursuant to this section.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

§ 1911. Acquisition of land by Secretary

Nothing in this chapter shall be construed to limit the authority of the Secretary to acquire lands and interests in lands within the bound-

aries of any unit of the National Park System. The Secretary is to give prompt and careful consideration to any offer made by the owner of any valid right or other property within the areas named in section 1905 of this title to sell such right or other property, if such owner notifies the Secretary that the continued ownership of such right or property is causing, or would result in, undue hardship.

(Pub. L. 94-429, § 12, Sept. 28, 1976, 90 Stat. 1344.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 94-429, which, in addition to enacting this chapter, amended sections 123 and 450y-2 of this title, and repealed sections 350, 350a, 447, and 450z of this title.

Section 1905 of this title, referred to in text, was omitted from the Code.

§ 1912. Financial disclosure by officer or employee of Secretary

(a) Filing and availability of written statements; contents

Each officer or employee of the Secretary of the Interior who—

(1) performs any function or duty under this Act, or any Acts amended by this Act concerning the regulation of mining within the National Park System; and

(2) has any known financial interest (A) in any person subject to such Acts, or (B) in any person who holds a mining claim within the boundaries of units of the National Park System;

shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) Enforcement procedures

The Secretary shall—

(1) act within ninety days after September 28, 1976—

(A) to define the term “known financial interest” for purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) Exemptions

In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within such agency which are of a non-regulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Violation; penalty

Any officer or employee who is subject to, and knowingly violates, this section or any regula-

tion issued thereunder, shall be fined not more than \$2,500 or imprisoned not more than one year, or both.

(Pub. L. 94-429, § 13, Sept. 28, 1976, 90 Stat. 1344.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1), is Pub. L. 94-429, which enacted this chapter, amended sections 123 and 450y-2 of this title, and repealed sections 350, 350a, 447, and 450z of this title. For complete classification of this Act to the Code, see Tables.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (b)(2) of this section, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 110 of House Document No. 103-7.

CHAPTER 40—SOIL AND WATER RESOURCES CONSERVATION

Sec.	
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§ 2001. Congressional findings

The Congress finds that:

(1) There is a growing demand on the soil, water, and related resources of the Nation to meet present and future needs.

(2) The Congress, in its concern for sustained use of the resource base,¹ of the United States, has ensured that the Department of Agriculture possesses information, technical expertise, and a delivery system for providing assistance to land users with respect to conservation and use of soils; plants; woodlands; watershed protection and flood prevention; the conservation, development, utilization, and disposal of water; animal husbandry; fish and wildlife management; recreation; community development; and related resource uses.

(3) Resource appraisal is basic to effective soil and water conservation. Since individual and governmental decisions concerning soil and water resources often transcend administrative boundaries and affect other programs and deci-

sions, a coordinated appraisal and program framework are essential.

(Pub. L. 95-192, § 2, Nov. 18, 1977, 91 Stat. 1407; Pub. L. 103-354, title II, § 246(f)(2)(A), Oct. 13, 1994, 108 Stat. 3225.)

AMENDMENTS

1994—Par. (2). Pub. L. 103-354 struck out “created the Soil Conservation Service” after “resource base,” and substituted “, has ensured that the Department of Agriculture” for “Department of Agriculture which” after “United States”.

SHORT TITLE

Section 1 of Pub. L. 95-192 provided: “That this Act [enacting this chapter] may be cited as the ‘Soil and Water Resources Conservation Act of 1977’.”

§ 2002. Definitions

As used in this chapter:

(1) The term “Secretary” means the Secretary of Agriculture.

(2) The term “soil, water, and related resources” means those resources which come within the scope of the programs administered and participated in by the Secretary of Agriculture.

(3) The term “soil and water conservation program” means a set of guidelines for attaining the purposes of this chapter.

(Pub. L. 95-192, § 3, Nov. 18, 1977, 91 Stat. 1407; Pub. L. 103-354, title II, § 246(f)(2)(B), Oct. 13, 1994, 108 Stat. 3225.)

AMENDMENTS

1994—Par. (2). Pub. L. 103-354 struck out “through the Soil Conservation Service” after “Agriculture”.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with this chapter with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 2003. Congressional policy and declaration of purpose

(a) Responsiveness to long-term needs

In order to further the conservation of soil, water, and related resources, it is declared to be the policy of the United States and purpose of this chapter that the conduct of programs administered by the Secretary of Agriculture for the conservation of such resources shall be responsive to the long-term needs of the Nation,

¹ So in original. The comma probably should not appear.